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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,932	07/17/2003	Dikran Meliksetian	POU920030113US1	2513

7590
John E. Campbell
IBM Corporation
2455 South Road, P386
Poughkeepsie, NY 12601

07/11/2007

EXAMINER

HAN, QI

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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07/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/621,932	MELIKSETIAN ET AL.	
	Examiner	Art Unit	
	Qi Han	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 10-15, 17, 19-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 10-15, 17, 19-24 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Amendment

2. This communication is responsive to the applicant's amendment dated 04/12/2007. The applicant(s) amended claims 1-2, 8, 10,-11, 17, 19-20 and 26, and cancelled claims 7, 9, 16, 18, 25 and 27 (see the amendment: pages 3-11).

Response to Arguments

3. Applicant's arguments filed on 04/12/2007 with respect to the claim rejection under 35 USC 101, have been fully considered but are moot in view of the new ground(s) of rejection, since the amended claims introduce new matter/issue and change the scope of the claims.

Claim Rejections - 35 USC § 101

4. Claims 1-6, 8, 10-15, 17, 19-24 and 26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 1, it claims "an autonomic computer system method", which appears, in the surface, to fall within statutory classes (i.e. a process). However, by reviewing the body of the claimed language, the claim, as whole, is drawn to or interpreted as only a computer program itself. It is noted that a computer program (listings, code, instructions, software, statements) per

Art Unit: 2626

se, is functional descriptive material per se, i.e. the descriptions or expressions of the programs, which are neither computer components nor statutory processes (see Interim Guidelines for Examination of Patent Applications For Patent Subject Matter Eligibility, 1300 Off. Gazette Patent Office 142, Nov. 22, 2005, p53). It is also noted that the newly added limitations “computer program” and “program statements” make the claim even worse, which clearly shows the claim is nothing more than claiming a computer program itself. Therefore, the claim, as whole, is directed to non-statutory subject matter.

Regarding claims 2-6 and 8, the rejection is based on the same reason described for claim 1, because these dependent claims include the same or similar problematic limitations as claim 1.

Regarding claim 10, it claims “a system”, which appears, in the surface, to fall within statutory classes (i.e. a machine). However, by reviewing the body of the claimed language, the claim, as whole, is substantially drawn to or interpreted as only a computer program itself. It is noted that a computer program (listings, code, instructions, software, statements) per se, is functional descriptive material per se, i.e. the descriptions or expressions of the programs, which are neither computer components nor statutory processes. Even though the claim includes limitation “a network” and “a computer system”, these elements are common for all computer-based system and are not particularly invented by the applicant in light of the specification (also evidenced by claim 19), the newly added limitations “computer program” and “program statements” clearly shows the claim is substantially nothing more than claiming a computer program. Therefore, the claim, as whole, is directed to non-statutory subject matter.

Regarding claims 11-15 and 17, the rejection is based on the same reason described for claim 10, because these dependent claims include the same or similar problematic limitations as claim 10.

Regarding claim 19, it claims “a computer program product”, but it lacks specific description in the specification to show what the product really is. By reviewing the body of the claimed language, even though the claim includes a limitation of “a computer readable medium having computer readable program code therein for performing a method...”, the claim, as whole, is substantially claiming a computer program itself. This is evidenced by the newly added limitations “computer program” and “program statements”, which clearly shows the claim is nothing more than claiming a computer program itself. It is noted that a computer program (listings, code, instructions, software, statements) per se, is functional descriptive material per se, i.e. the descriptions or expressions of the programs, which are neither computer components nor statutory processes. Therefore, the claim, as whole, is directed to non-statutory subject matter.

Regarding claims 20-4 and 26, the rejection is based on the same reason described for claim 19, because these dependent claims include the same or similar problematic limitations as claim 19.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 2626

5. Claim 38 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 38, the limitation of "an autonomic computer system method" in the new added claim introduces new subject matter, because it not specifically described in the original specification.

6. As best understood in view of the claims rejection under 35 U.S.C 101 and 112, see above, an updated prior art search has been conducted (also see the attached PTO-892 form).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2626

8. Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qi Han whose telephone numbers is (571) 272-7604. The examiner can normally be reached on Monday through Thursday from 9:00 a.m. to 7:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (571) 272-7602.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: ebc@uspto.gov. For general information about the PAIR system, see <http://pair-direct.uspto.gov>.

QH/qh
June 27, 2007


RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER